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*Attorneys for Defendants*  
*C. R. Bard, Inc. and*  
*Bard Peripheral Vascular, Inc.*

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

IN RE: Bard IVC Filters Products Liability  
Litigation

No. 2:15-MD-02641-DGC

SHERR-UNA BOOKER, an individual,  
  
Plaintiff,  
  
v.

CV-16-00474-PHX-DGC

**DEFENDANTS' UNOPPOSED  
MOTION FOR RELEASE OF  
SUPERSEDEAS BOND**

C. R. BARD, INC., a New Jersey  
corporation and BARD PERIPHERAL  
VASCULAR, INC., an Arizona  
corporation,  
  
Defendants.

(Assigned to the Hon. David G.  
Campbell)

1 Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively,  
2 “Bard”), pursuant to Rules 60(b)(5) and 62(b) of the Federal Rules of Civil Procedure,  
3 respectfully move for an order directing the Clerk of this Court to discharge and release  
4 the supersedeas bond filed in this case (Doc. 11935-1), stating as follows:

5 1. On July 9, 2018, the Court entered judgment against Bard in the amount of  
6 \$3,600,000.00 plus post-judgment interest, along with lawfully taxable costs.  
7 (Doc. 11771.)

8 2. On July 23, 2018, the Court stayed execution on the judgment pending  
9 disposition of Bard’s appeal to the United States Court of Appeals for the Ninth Circuit  
10 following the Court’s simultaneous approval of the supersedeas bond proffered by Bard  
11 (Doc. 11935-1), in the amount of \$3,767,760.00, secured by Liberty Mutual Insurance  
12 Company, a Massachusetts corporation, as surety on behalf of Bard as principal.  
13 (See Doc. 11954).

14 3. “No federal statute or provision of the Federal Rules of Civil Procedure or  
15 the Federal Rules of Appellate Procedure defines the conditions that must occur to trigger  
16 an appellant’s obligation under a supersedeas bond. Instead, the extent of the appellant’s  
17 liability is governed by the terms of the bond itself.” *Tennessee Valley Auth. v. Atlas*  
18 *Mach. & Iron Works, Inc.*, 803 F.2d 794, 798 (4th Cir. 1986) (citations omitted).  
19 “[A]bsent unambiguous language in the supersedeas bond to the contrary, an appellant is  
20 liable under a bond only until the court of appeals has issued its mandate in a case.” *Water*  
21 *Techs. Corp. v. Calco, Ltd.*, 694 F. Supp. 1328, 1331 (N.D. Ill. 1988).

22 4. Under the terms of the supersedeas bond, the condition of the bond is such  
23 that if Bard prosecuted an appeal of this Court’s judgment to the Ninth Circuit Court of  
24 Appeals and/or the Supreme Court of the United States and satisfied the judgment in full  
25 together with interest if the judgment was affirmed, then the bond is void and all  
26 obligations under the bond would be discharged. (See Doc. 11935-1 at 3.)

27 5. On August 13, 2020, the Ninth Circuit Court of Appeals affirmed the  
28 judgment of this Court. See *In re Bard IVC Filters Prods. Liab. Litig.*, 969 F.3d 1067

(9th Cir. 2020). The Ninth Circuit denied Defendants’ petition for panel rehearing and rehearing en banc on October 7, 2020, *see* No. 18-16349, Doc. 84, and issued its formal mandate on October 15, 2020. (Doc. 21632.)

6. On December 17, 2020, Plaintiff Sherr-Una Booker filed a Satisfaction of Judgment in this Court. (Doc. 21745.)

7. The judgment having now been satisfied and paid in full, including satisfaction of the proportionate share of the punitive damage award to the State of Georgia pursuant to O.C.G.A. § 51-12-5.1(e)(2), the supersedeas bond is now void under its terms and should be fully and unconditionally discharged and released; and Bard, as principal, along with its parents, affiliates, and subsidiaries, as well as Liberty Mutual Insurance Company, as surety, along with its parents, affiliates, and subsidiaries, should be released from any and all past, present, and future liability under said bond.

8. “The purpose of a supersedeas bond is to secure the appellees from a loss resulting from a stay of execution[.]” *Rich v. BAC Home Loans Servicing LP*, No. CV-11-00511-PHX-DLR, 2017 WL 1197005, at \*1 (D. Ariz. Mar. 30, 2017). “Courts release supersedeas bonds when the bond has served its purpose and no outstanding judgment remains. A supersedeas bond posted for a stay of execution of judgment should be released once all appeals are exhausted, the stay has been lifted and full payment has been made.” *Goss Int’l Corp. v. Tokya Kikai Seisakusho, Ltd.*, No. 00-CV-35-LRR, 2006 WL 4757279, at \*3 (N.D. Iowa Aug. 9, 2006) (granting request to release supersedeas bond where appeals were exhausted and full payment was made); *accord Halliburton Energy Servs., Inc. v. NL Indus.*, 703 F. Supp. 2d 666, 671 (S.D. Tex. 2010) (same where supersedeas bond had fulfilled its purpose and the appeal had been resolved).

9. Counsel for Defendants has conferred with Plaintiff’s counsel, and Plaintiff does not oppose this motion.

10. Accordingly, because judgment has been satisfied and paid in full, Bard respectfully requests that the Court issue an order fully and unconditionally discharging and releasing the supersedeas bond; releasing C. R. Bard Inc., Bard Peripheral Vascular,

1 Inc., and Liberty Mutual Insurance Company, along with each of their parents, affiliates,  
2 and subsidiaries from any and all past, present, and future liability under said bond;  
3 directing the Clerk of this Court to return the bond to counsel for Defendants; and for all  
4 other proper relief. A proposed order is attached as Exhibit A for the Court's convenience.

5 RESPECTFULLY SUBMITTED this 21st day of December, 2020.

6 s/ Richard B. North, Jr.  
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22 **Attorneys for Defendants C. R. Bard, Inc. and**  
23 **Bard Peripheral Vascular, Inc.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of December, 2020, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record.

s/ Richard B. North, Jr.  
Richard B. North, Jr.

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